



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB0296

Introduced 2/6/2009, by Sen. Michael Noland

#### SYNOPSIS AS INTRODUCED:

New Act  
625 ILCS 5/3-835 new  
30 ILCS 105/5.719 new

Creates the Illinois Diesel Emissions Reduction Act. Creates the Illinois Diesel Emissions Reduction Funding Program and the Diesel Emissions Reduction Fund. Provides that moneys in the Fund shall be used only to implement the Funding Program. Requires the collection of a surcharge on the retail sale or lease of certain diesel vehicles that are of a model year 2006 or earlier and are not equipped with Level 3 Controls. Requires a similar surcharge on the registration of certain diesel vehicles. Requires IEPA, in consultation with the State Treasurer and after notice and public comment, to promulgate rules to establish and implement the Diesel Emissions Reduction Funding Program. Sets out guidelines for the administration of the Diesel Emissions Reduction Funding Program and the corresponding grant and rebate programs. Provides that IEPA may seek injunctive relief in any court of competent jurisdiction to enforce any provision of the Funding Program. Amends the Illinois Vehicle Code. Provides that the Secretary of State shall require additional information with the registration of a diesel motor vehicle to support a reliable and complete inventory of diesel motor vehicles in the State. Provides that the Secretary of State, in consultation with DOT and IEPA, shall, promulgate regulations by October 1, 2010 to develop a program for registration of diesel nonroad vehicles, locomotives, and diesel marine vessels, and shall implement the program beginning January 1, 2010. Contains other provisions. Effective immediately.

LRB096 05581 JDS 15647 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Diesel Emissions Reduction Act.

6 Section 5. Legislative findings and purpose. The  
7 Legislature hereby finds and declares that:

8 (a) Diesel exhaust particle pollution poses a clear and  
9 present health risk to the people of Illinois. The United  
10 States Environmental Protection Agency has classified diesel  
11 exhaust as a likely human carcinogen, and has identified diesel  
12 particulate matter and diesel exhaust organic gases as toxic  
13 air pollutants. Diesel exhaust is also a prime contributor to  
14 airborne fine particle pollution, which is linked to premature  
15 death and other serious cardiovascular and pulmonary problems  
16 such as heart attacks, abnormal heart rhythms,  
17 atherosclerosis, stroke, asthma attacks, permanent respiratory  
18 damage, and hindered lung growth in children.

19 (b) The health impacts from diesel emissions particularly  
20 affect children, the elderly, and people with weakened immune  
21 systems.

22 (c) Particularly high concentrations of diesel emissions  
23 often occur in heavily traveled transportation corridors,

1 intermodal yards, bus depots, and construction sites; these  
2 diesel "hot spots" often are found in densely populated urban  
3 areas, disproportionately impacting ethnic minorities and  
4 people of lower economic status.

5 (d) Diesel engine crankcases also are a source of emissions  
6 that can seep into the cabin and expose vehicle drivers and  
7 passengers to harmful diesel emissions.

8 (e) Diesel exhaust also contains carbon monoxide and carbon  
9 dioxide which are gases that contribute to global climate  
10 change.

11 (f) Reduction of diesel emissions can help address these  
12 human health and climate problems.

13 (g) The United States Environmental Protection Agency has  
14 promulgated regulations over the past few years requiring the  
15 substantial reduction of emissions from new diesel engines in  
16 both heavy-duty highway vehicles and land-based nonroad  
17 equipment. However, these regulations do not apply to any of  
18 the over 11,000,000 existing diesel engines in the United  
19 States, most of which emit substantially more pollution and  
20 often remain in service for 10 to 30 years, depending on the  
21 type of engine and equipment.

22 (h) Practical, cost-effective measures to substantially  
23 reduce diesel particulate emissions are available today, and  
24 can be applied to many existing diesel engines. The same  
25 technology that limits diesel pollution from new diesel engines  
26 can be retrofitted onto existing engines or applied in new

1 replacement engines to reduce diesel emissions by 85% or more.

2 (i) Therefore, the purpose of this Funding Program is to  
3 help minimize the public health risks from exposure to diesel  
4 particulate emissions as expeditiously as practical.

5 Section 10. Definitions. For purposes of this Act:

6 "Auxiliary power unit" means a portable, vehicle-mounted  
7 system that provides climate control and power for a diesel  
8 vehicle interior cabin without using the propulsion engine.

9 "CARB" means the California Air Resources Board.

10 "Certified engine configuration" means a new, rebuilt, or  
11 remanufactured engine configuration:

12 (1) that has been certified or verified by USEPA or  
13 CARB;

14 (2) that meets or exceeds engine emissions standards,  
15 as determined by IEPA; and

16 (3) in the case of a certified engine configuration  
17 involving the replacement of an existing engine or vehicle,  
18 an engine configuration that replaced an engine that was  
19 removed from the vehicle and returned to the supplier for  
20 remanufacturing to a more stringent set of engine emissions  
21 standards or for scrappage.

22 "Closed Crankcase Ventilation System" or "CCV" means  
23 equipment that completely closes the crankcase of a diesel  
24 engine to the atmosphere and routes the crankcase vapor to the  
25 engine intake air system or the exhaust system.

1 "DOT" means the Illinois Department of Transportation.

2 "Fleet" means one or more diesel vehicles or mobile or  
3 stationary diesel engines owned or operated by the same person  
4 or group of related persons.

5 "Heavy duty diesel vehicle" means a motor vehicle with a  
6 gross vehicle weight rating of at least 14,000 pounds that is  
7 powered by a diesel engine.

8 "IEPA" means the Illinois Environmental Protection Agency.

9 "Incremental cost" means the cost of an applicant's  
10 emission reduction measure actions, less the baseline cost that  
11 would otherwise be incurred by the applicant in the normal  
12 course of business. Incremental costs may include added lease  
13 or fuel costs as well as capital costs.

14 "Level 3 Control" means a Verified Diesel Emission Control  
15 Device that achieves a particulate matter (PM) emission  
16 reduction of 85% or more from uncontrolled engine emission  
17 levels, or that reduces emissions to less than or equal to 0.01  
18 grams of PM per brake horsepower-hour. Level 3 Control includes  
19 repowering or replacing the existing diesel engine with an  
20 engine meeting USEPA's 2007 Heavy-duty Highway Diesel  
21 Standards, or in the case of a nonroad engine, an engine  
22 meeting the USEPA's Tier 4 Nonroad Diesel Standards; Level 3  
23 Control also includes new diesel engines meeting the emissions  
24 standards.

25 "Medium duty diesel vehicle" means a motor vehicle with a  
26 gross vehicle weight rating of at least 8,500 pounds and less

1 than 14,000 pounds that is powered by a diesel engine.

2 "Motor vehicle" means any self-propelled vehicle designed  
3 for transporting persons or property on a street or highway,  
4 including an on-road diesel vehicle.

5 "Nonroad engine" means an internal combustion engine  
6 (including the fuel system) that is not used in a motor vehicle  
7 or a vehicle used solely for competition, or that is not a  
8 stationary source, except that this term shall apply to  
9 internal combustion engines used to power generators,  
10 compressors, or similar equipment used in any construction  
11 program or project.

12 "Nonroad vehicle" means a vehicle or piece of equipment  
13 that is powered by a nonroad engine, 50 horsepower and greater,  
14 and that is not a motor vehicle or a vehicle used solely for  
15 competition, which shall include, but not be limited to,  
16 excavators, backhoes, cranes, compressors, generators,  
17 bulldozers, and similar equipment; unless otherwise indicated,  
18 nonroad vehicles do not include locomotives or marine vessels.

19 "Person" means any natural person, co-partnership, firm,  
20 company, association, joint stock association, corporation, or  
21 other like organization or entity.

22 "PM" means particulate matter, a criteria pollutant listed  
23 by the USEPA under the authority of Section 108 of the federal  
24 Clean Air Act (42 U.S.C. 7408).

25 "Public agency" means a state, city, county,  
26 administration, department, division, bureau, board,

1 commission, corporation, institution, or agency of government,  
2 the expenses of which are paid in whole or in part from the  
3 public treasury.

4 "Retrofit" means to equip a diesel motor vehicle or nonroad  
5 vehicle with new particulate emissions-reducing parts or  
6 technology verified by USEPA or CARB after manufacture of the  
7 original engine.

8 "Ultra low sulfur diesel fuel" means diesel fuel that has a  
9 sulfur content of no more than 15 parts per million.

10 "USEPA" means the United States Environmental Protection  
11 Agency.

12 "Verified diesel emission control device" means:

13 (1) an emission control device or strategy that has  
14 been verified to achieve a specified diesel PM reduction by  
15 USEPA or CARB; or

16 (2) replacement or repowering with an engine that is  
17 certified to specific PM emissions performance by USEPA or  
18 CARB.

19 "Verified technology" means a verified diesel emission  
20 control device, an advanced truckstop electrification system,  
21 or an auxiliary power unit.

22 Section 15. Mechanics of the Diesel Emissions Reduction  
23 Funding Program.

24 (a) The Diesel Emissions Reduction Fund (the "Fund") is  
25 hereby established as an account in the State treasury.

1           (1) The Fund shall be administered by the State  
2           Treasurer for the benefit of the Diesel Emissions Reduction  
3           Funding Program established under this Section.

4           (2) Interest earned on the Fund shall be credited to  
5           the Fund.

6           (3) The Fund consists of the funds, contributions,  
7           fees, and surcharges under subdivisions (a) (5), (a) (6),  
8           (a) (7), (c) (4) (D), and (d) (10) of Section 15.

9           (4) Moneys in the Fund shall be used only to implement  
10          the Funding Program; however, 2% of the money in the Fund  
11          may be used for Fund administrative costs incurred by both  
12          the IEPA and the State Treasurer. Moneys allocated to an  
13          eligible diesel emission reduction measure but not  
14          expended in any fiscal year shall be carried over to the  
15          next fiscal year.

16          (5) A surcharge is hereby imposed on the retail sale,  
17          lease, or rental of diesel nonroad vehicles in an amount  
18          equal to 1% of the sales, lease, or rental price of that  
19          vehicle. The State Treasurer shall, within one year after  
20          enactment of this Act, adopt any procedures needed for the  
21          collection, administration, and enforcement of the  
22          surcharge authorized by this subsection, and shall deposit  
23          all surcharges into the Fund.

24          (6) A surcharge is hereby imposed on every retail sale  
25          or lease of every heavy duty diesel vehicle that is of a  
26          model year 2006 or earlier that is not equipped with Level

1           3 Controls and that is sold or leased in this State. The  
2           amount of the surcharge is 2.5% of the sale or lease price.  
3           The State Treasurer shall, within one year after the  
4           enactment of this Act, adopt any procedures needed for the  
5           collection, administration, and enforcement of the  
6           surcharge authorized by this subsection, and shall deposit  
7           all surcharges into the Fund.

8           (7) In addition to the registration fees charged under  
9           Article VIII of the Illinois Vehicle Code, a surcharge is  
10          hereby imposed on the registration of a heavy duty diesel  
11          vehicle in an amount equal to 10% of the total registration  
12          fee due. The surcharges shall be remitted to the State  
13          Treasurer for deposit into the Fund.

14          (b) Establishment and Administration of the Funding  
15          Program. Within one year after the effective date of this Act,  
16          IEPA, in consultation with the State Treasurer and after notice  
17          and public comment, shall promulgate rules to establish and  
18          implement the Diesel Emissions Reduction Funding Program in  
19          accordance with this Act.

20          (1) The Funding Program shall consist of the Grant  
21          Program, the Rebate Program, or both, as determined by IEPA  
22          in its sole discretion.

23          (2) If IEPA elects to disburse Funding Program funds  
24          under the Grant Program, IEPA shall establish and  
25          administer that program and shall provide grants and  
26          low-cost revolving loans from the Fund, on a competitive

1 basis, to eligible measures to achieve significant  
2 reductions of diesel particulate emissions in accordance  
3 with the provisions of subsection (c).

4 (3) If IEPA elects to disburse Funding Program funds  
5 under the Rebate Program, IEPA shall establish and  
6 administer that program and shall provide rebates from the  
7 Fund in accordance with subsection (d).

8 (4) In administering the Funding Program and in  
9 accordance with the requirements of this program, IEPA  
10 shall:

11 (A) manage Funding Program funds and oversee the  
12 Funding Program;

13 (B) produce guidelines, protocols, and criteria  
14 for eligible emission reduction measures;

15 (C) develop methodologies for evaluating emission  
16 reduction measure benefits and cost-effectiveness;

17 (D) develop procedures for monitoring whether the  
18 emissions reductions projected for grants awarded for  
19 emission reduction measures under this Act are  
20 actually achieved;

21 (E) prepare reports regarding the progress and  
22 effectiveness of the Funding Program; and

23 (F) take all appropriate and necessary actions so  
24 that emissions reductions achieved through the Funding  
25 Program may be credited by USEPA to the appropriate  
26 emissions reduction objectives in the State

1 implementation plan.

2 (c) Grant Program. Any Grant Program established by IEPA  
3 under subsection (b)(1) shall be implemented in accordance with  
4 the following provisions:

5 (1) Each year, IEPA shall allocate, at its discretion,  
6 some or all of the moneys available in the Fund to the  
7 Grant Program. Grant Program funds not expended in a given  
8 year shall be transferred at IEPA's discretion to the Grant  
9 Program or any Rebate Program established under subsection  
10 (d) for the following year.

11 (2) Fund Distribution. Subject to the provisions of  
12 subdivision (a)(4) of this Section, IEPA shall distribute  
13 funds available for each fiscal year for eligible emission  
14 reduction measures under the Grant Program in accordance  
15 with the following priority:

16 (A) first, to diesel fleets owned and operated by a  
17 public agency; and, if funds are remaining after all  
18 eligible emission reduction measures from this class  
19 have been funded, then

20 (B) second, to privately owned diesel fleets  
21 operated for the benefit of the public pursuant to a  
22 contract with a public agency; and, if funds are  
23 remaining after all such eligible emission reduction  
24 measures have been funded, then

25 (C) third, to privately owned diesel fleets  
26 operating on private business.

1 (3) Applications.

2 (A) To receive a grant or loan under the Grant  
3 Program, the applicant shall submit to IEPA an  
4 application including such information as IEPA may  
5 require.

6 (B) An application under this subsection shall  
7 include all of the following:

8 (i) A description of the air quality of the  
9 area in which the emission reduction measure  
10 fleets will operate.

11 (ii) A description of the emission reduction  
12 measure proposed by the applicant, including all  
13 of the following:

14 (I) Any certified engine configuration or  
15 verified technology proposed to be used or  
16 funded in the emission reduction measure.

17 (II) The means by which the emission  
18 reduction measure will achieve a significant  
19 reduction in diesel emissions.

20 (iii) An evaluation (using methodology  
21 approved by IEPA) of the quantifiable and  
22 unquantifiable benefits of the emissions  
23 reductions of the proposed emission reduction  
24 measure.

25 (iv) An estimate of the cost of the proposed  
26 emission reduction measure.

1 (v) A description of the age and expected  
2 lifetime control of the equipment to be used or  
3 funded in the proposed emission reduction measure.

4 (vi) A description of the diesel fuel  
5 available in the areas to be served by the proposed  
6 emission reduction measure, including the sulfur  
7 content of the fuel.

8 (vii) Provisions for the monitoring and  
9 verification of the emission reduction measure.

10 (viii) Other information as may be required by  
11 IEPA.

12 (4) Eligibility.

13 (A) A person who submits a proposed emission  
14 reduction measure must meet the requirements of this  
15 Act to be eligible for a grant or loan under the Grant  
16 Program.

17 (B) IEPA may consider funding the following types  
18 of emission reduction measures:

19 (i) Installation of a retrofit technology  
20 (including any incremental costs of a repowered or  
21 new diesel engine) that significantly reduces  
22 particulate emissions through development and  
23 implementation of a certified engine configuration  
24 or a verified diesel emission control device for a  
25 medium-duty or heavy-duty diesel motor vehicle, a  
26 diesel nonroad vehicle, a commercial marine

1 engine, or a locomotive.

2 (ii) Installation of a CCV on a medium-duty or  
3 heavy-duty diesel motor vehicle, a diesel nonroad  
4 vehicle, or a locomotive.

5 (iii) Programs or emission reduction measures  
6 to reduce long-duration idling using verified  
7 technology involving a medium-duty or heavy-duty  
8 diesel motor vehicle, a diesel nonroad vehicle, or  
9 a locomotive; however, truckstop electrification  
10 facilities shall be eligible for low-cost  
11 revolving loans but not eligible for grants.

12 (C) In providing a grant or loan under the Grant  
13 Program, and subject to the provisions of subdivision  
14 (c) (2) of this Section, IEPA shall give priority to  
15 otherwise eligible emission reduction measures within  
16 each of the 3 priority categories described in  
17 subdivision (c) (2) of that Section that IEPA  
18 determines:

19 (i) Maximize public health benefits.

20 (ii) Are cost-effective.

21 (iii) Serve areas with the highest population  
22 density; that receive a disproportionate quantity  
23 of air pollution from diesel fleets, truckstops,  
24 ports, rail yards, terminals, and distribution  
25 centers; that use a community-based  
26 multi-stakeholder collaborative process to reduce

1 toxic emissions; and that are poor air quality  
2 areas, including any of the following:

3 (I) Areas in nonattainment or  
4 maintenance of national ambient air  
5 quality standards for a criteria  
6 pollutant.

7 (II) Federal Class I areas.

8 (III) Areas with toxic air pollutant  
9 concerns as determined by the IEPA.

10 (iv) Include a certified engine configuration  
11 or verified technology that has a long expected  
12 useful life.

13 (v) Will maximize the useful life of any  
14 certified engine configuration or verified  
15 technology used or funded by the project.

16 (vi) Conserve diesel fuel.

17 (vii) Use ultra low sulfur diesel fuel.

18 (D) For a proposed emission reduction measure,  
19 other than a project involving a marine vessel or  
20 engine, to qualify for the Funding Program, at least  
21 75% of vehicle miles traveled or hours of operation  
22 projected for the 5 years immediately following the  
23 award of a grant must be projected to take place in  
24 this State. For a proposed emission reduction measure  
25 involving a marine vessel or engine, the vessel or  
26 engine must be operated in the waterways adjacent to or

1 within Illinois for a sufficient amount of time over  
2 the lifetime of the measure, as determined by IEPA, to  
3 meet the cost-effectiveness requirements of  
4 subdivision (c)(5) of this Section. The owner of any  
5 vehicle receiving funding for an emission reduction  
6 measure that fails, after the award of the grant, to  
7 meet this geographical requirement shall pay a civil  
8 penalty to IEPA equal to a portion of the grant funds  
9 as IEPA shall require pursuant to prior regulations.  
10 The proceeds of all of these penalties shall be  
11 deposited into the Fund.

12 (E) Each proposed emission reduction measure must  
13 meet the cost-effectiveness requirements of  
14 subdivision (c)(5) of this Section.

15 (F) A proposed emission reduction measure based on  
16 the use of a certified engine configuration or verified  
17 technology must document, in a manner acceptable to  
18 IEPA, a reduction in particulate emissions of at least  
19 50% (compared with the baseline emissions adopted by  
20 IEPA for the relevant engine year and application to  
21 the extent not provided pursuant of the relevant CARB  
22 or USEPA verification process). Three years after the  
23 effective date of this Act, after study of available  
24 emissions reduction technologies, and after public  
25 notice and comment, IEPA may increase the minimum  
26 percentage reduction in particulate emissions required

1 by this subsection to improve the ability of the  
2 Funding Program to achieve its goals.

3 (5) Cost-effectiveness.

4 (A) For purposes of this Act, "cost-effectiveness"  
5 means the total dollar amount divided by the total  
6 number of tons of particulate matter reduction  
7 attributable to that expenditure. In calculating  
8 cost-effectiveness, one-time grants of money at the  
9 beginning of a project shall be annualized using a time  
10 value of public funds or discount rate determined for  
11 each project by IEPA, taking into account the interest  
12 rate on bonds, interest earned by State funds, and  
13 other factors IEPA considers appropriate.

14 (B) IEPA shall establish reasonable methodologies  
15 for evaluating emission reduction measure  
16 cost-effectiveness consistent with subdivision (5) (A)  
17 of this Section.

18 (C) Except as provided by subdivision (5) (F) of  
19 this Section, and except for installation of CCVs under  
20 subdivision (4) (B) (ii) of this Section, IEPA may not  
21 award a grant for a proposed emission reduction measure  
22 under the Grant Program the cost-effectiveness of  
23 which, calculated in accordance with subdivisions  
24 (5) (A) and (B) of this Section and criteria developed  
25 under those subdivisions, exceeds \$135,000 per ton of  
26 PM emissions. This subsection does not restrict IEPA

1 authority under other law, to require more or less  
2 cost-effective emissions reductions.

3 (D) IEPA may not award a grant for an amount that  
4 exceeds the incremental cost of the proposed emission  
5 reduction measure.

6 (E) In determining the amount of a grant under this  
7 Act, IEPA shall reduce the incremental cost of a  
8 proposed new purchase, retrofit, repower, or add-on  
9 equipment emission reduction measure by the value of  
10 any existing financial incentive that directly reduces  
11 the cost of the proposed measure, including tax credits  
12 or deductions, other grants, loans, rebates, or any  
13 other public financial assistance.

14 (F) Based upon a study of available emissions  
15 reduction technologies and costs and after public  
16 notice and comment, IEPA may change the values of the  
17 maximum grant award criteria established in  
18 subdivision (c)(5)(C) of this Section to account for  
19 inflation or to improve the ability of the Grant  
20 Program to achieve its goals.

21 (d) Rebate Program. Any Rebate Program established by IEPA  
22 pursuant to subsection (b)(1) of this Section shall be  
23 implemented in accordance with the following provisions:

24 (1) Each year, IEPA shall allocate at its discretion  
25 some or all of the moneys available in the Fund to the  
26 Rebate Program. Rebate Program funds not expended in a

1 given year shall be transferred to the Rebate Program or  
2 any Grant Program established under subsection (c) for the  
3 following year at IEPA's discretion.

4 (2) A retrofit vendor or owner of an eligible vehicle  
5 who meets the requirements of this subsection shall be  
6 eligible to receive a rebate under the Rebate Program; for  
7 purposes of this subsection, "eligible vehicle" shall mean  
8 a vehicle that meets the requirements of this subsection  
9 and that is described in subdivision (c) (4) (B) (i) and also:

10 (A) is described in subdivision (c) (2) (A);

11 (B) following 2 years after the effective date of  
12 this Funding Program, is described in subdivision  
13 (c) (2) (B); and

14 (C) following 4 years after the effective date of  
15 this Funding Program, is described in subdivision  
16 (c) (2) (C).

17 (3) Moneys from the Fund will be provided in the rebate  
18 amount to defray the cost of purchase and installation of  
19 retrofitting an eligible vehicle with a Level 3 Control in  
20 combination with a CCV.

21 (4) Within 180 days after effective date of this Act,  
22 IEPA shall establish the initial rebate amount for  
23 retrofits of various types of eligible vehicles. IEPA shall  
24 review the appropriateness of the amount no less frequently  
25 than annually and may change the rebate amount to improve  
26 the ability of the Rebate Program to achieve its goals.

1           (5) In order to receive a rebate, an eligible vehicle  
2 owner or retrofit vendor shall:

3           (A) submit to IEPA a completed rebate reservation  
4 form including information that IEPA may require with  
5 respect to each rebate sought;

6           (B) within 120 days of submission of a rebate  
7 reservation form, the owner or vendor shall complete  
8 the retrofit pertaining to the rebate reservation  
9 form, and shall submit a completed IEPA reimbursement  
10 request form, including certification of retrofit  
11 completion and compliance with all requirements of  
12 this subsection and containing any other information  
13 and conditions as IEPA may require.

14           (6) Rebates shall be provided on a first come, first  
15 served basis, with priority established based upon the date  
16 of IEPA receipt of a completed reservation form pursuant to  
17 subdivision (5)(A); however, if the retrofits are not  
18 completed and the reimbursement request form is not  
19 submitted to IEPA within the 120-day period as required by  
20 subsection (5)(B), then IEPA may reduce the amount of the  
21 rebate or take such other action as it has established by  
22 regulations promulgated pursuant to this Funding Program.

23           (7) To the extent of available funds allocated to the  
24 Rebate Program, IEPA shall pay the owner or vendor the  
25 rebate within 60 days of receipt of a timely, complete, and  
26 accurate reimbursement form.

1           (8) Owners of eligible vehicles for which rebates are  
2           paid must:

3                   (A) meet the requirements of subsection (c) (4) (D);

4                   (B) fuel the vehicle with ultra low sulfur diesel  
5           fuel; and

6                   (C) maintain the vehicle and Level 3 Controls  
7           according to manufacturer specifications.

8           (9) The retrofit vendor of eligible vehicles for which  
9           rebates are provided must honor all warranty provisions  
10           according to their verification.

11           (10) Persons receiving rebates who fail to meet all  
12           requirements of this subsection shall pay a civil penalty  
13           to IEPA in the full amount of the rebates, plus interest at  
14           a reasonable rate established by IEPA. The proceeds of all  
15           such penalties shall be deposited in the Fund.

16           (e) Emission Reduction Credits.

17                   (1) An emission reduction measure funded under the  
18           Funding Program established under this Section may not be  
19           used for credit under any State or federal emissions  
20           reduction credit averaging, banking, or trading program.

21                   (2) An emissions reduction generated by an emission  
22           reduction measure funded under the Funding Program  
23           established under this Section:

24                           (A) may not be used as a marketable emissions  
25           reduction credit or to offset any emissions reduction  
26           obligation; but

1 (B) may be used to demonstrate conformity with the  
2 State implementation plan.

3 (3) An emission reduction measure involving a new  
4 measure that would otherwise generate marketable credits  
5 under State or federal emissions reduction credit  
6 averaging, banking, or trading programs is not eligible for  
7 funding under the Funding Program established under this  
8 Section unless:

9 (A) the measure includes the transfer of the  
10 reductions that would otherwise be marketable credits  
11 to the State implementation plan; and

12 (B) the reductions are permanently retired.

13 (f) Funding Program Reports.

14 (1) Not later than December 1, 2008, and not later than  
15 December 1 of every second year thereafter, IEPA shall  
16 publish and submit to the Legislature a report of the  
17 implementation of the provisions of this Funding Program.  
18 IEPA shall provide notice and an opportunity for public  
19 comment and public hearing on each draft biennial report  
20 and, in producing a final biennial report, shall consider  
21 and respond to all significant comments received; the  
22 report shall be publicly available, and IEPA shall post it  
23 on its website.

24 (2) The report must:

25 (A) include a review of each pollution-reduction  
26 measure funded under any Grant Program, the amount

1 granted for the emission reduction measure, the  
2 emissions reductions attributable to the emission  
3 reduction measure, and the cost-effectiveness of the  
4 emission reduction measure; IEPA shall also conduct an  
5 annual review of any Rebate Program, including the  
6 total rebates paid, the total retrofits installed and  
7 the aggregate emission reductions attributable to  
8 those retrofits;

9 (B) include a summary of IEPA's Funding Program  
10 implementation activities under this Section;

11 (C) account for money received, money disbursed as  
12 grants, money reserved for grants based on project  
13 approvals, money disbursed as rebates, any recommended  
14 transfer of money between allocations, and must  
15 estimate future demand for grant and rebate funds under  
16 the Funding Program;

17 (D) describe the overall effectiveness of the  
18 Funding Program in delivering particulate emissions  
19 reductions and other emission reductions as  
20 co-benefits;

21 (E) evaluate the effectiveness of the Funding  
22 Program in soliciting and evaluating project  
23 applications, providing awards in a timely manner, and  
24 monitoring project implementation;

25 (F) describe adjustments made to project selection  
26 criteria and recommend any further needed changes or

1 adjustments to the grant programs, including changes  
2 in grant award criteria, administrative procedures, or  
3 statutory provisions that would enhance the Funding  
4 Program's effectiveness and efficiency;

5 (G) describe any adjustments made to the maximum  
6 cost-effectiveness amount and award amount;

7 (H) evaluate the benefits of addressing additional  
8 pollutants as part of the Funding Program; and

9 (I) include legislative recommendations necessary  
10 to improve the effectiveness of the Funding Program.

11 Section 20. Miscellaneous.

12 (a) Equitable Relief Authorized. In addition to other  
13 remedies provided in this Funding Program, IEPA may seek  
14 injunctive relief in any court of competent jurisdiction to  
15 enforce any provision of this Funding Program.

16 (b) Severability. If any clause, sentence, paragraph,  
17 section or provision of this Funding Program shall be adjudged  
18 by any court of competent jurisdiction to be invalid, such  
19 judgment shall not affect, impair, or invalidate the remainder  
20 of this Funding Program, but shall be confined in its operation  
21 to the clause, sentence, paragraph, section, or provision of  
22 this Funding Program directly involved in the controversy in  
23 which the judgment was rendered.

24 Section 90. The Illinois Vehicle Code is amended by adding

1 Section 3-835 as follows:

2 (625 ILCS 5/3-835 new)

3 Sec. 3-835. Improvement of Diesel Vehicle Registry.

4 (a) Definitions for the purposes of this Section:

5 (i) "Secretary" means the Office of the Illinois  
6 Secretary of State.

7 (ii) "DOT" means the Illinois Department of  
8 Transportation.

9 (iii) "IEPA" means the Illinois Environmental  
10 Protection Agency.

11 (iv) "Motor vehicle" means any self-propelled vehicle  
12 designed for transporting persons or property on a street  
13 or highway, including an on-road diesel vehicle.

14 (v) "Nonroad vehicle" means a vehicle or equipment that  
15 is powered by a nonroad engine, 50 horsepower and greater,  
16 and that is not a motor vehicle or a vehicle used solely  
17 for competition, which shall include, but not be limited  
18 to, excavators, backhoes, cranes, compressors, generators,  
19 bulldozers, and similar equipment; unless otherwise  
20 indicated, nonroad vehicles do not include locomotives or  
21 marine vessels.

22 (b) Diesel Motor Vehicle Registration Information. The  
23 Secretary shall, in consultation with IEPA, review the  
24 information obtained through the registration of diesel motor  
25 vehicles. After such review, and no later than March 1, 2010,

1 the Secretary shall require such additional information upon  
2 the registration of a diesel motor vehicle that is appropriate  
3 to support a reliable and complete inventory of diesel motor  
4 vehicles in the State; such information shall include but not  
5 be limited to, the type of fuel for which the vehicle is  
6 designed, the gross vehicles weight rating, the engine class  
7 (including whether the engine is electronically controlled),  
8 the use for which the vehicle is designed, and any installed  
9 emission controls. The Secretary shall, in consultation with  
10 IEPA, provide such information to IEPA in a form that will  
11 support a reliable and complete inventory of diesel motor  
12 vehicles in the State.

13 (c) Diesel Nonroad Vehicle Registration. The Secretary, in  
14 consultation with DOT and IEPA, shall, after written notice and  
15 public hearing, promulgate regulations by October 1, 2010 to  
16 develop a program for registration of diesel nonroad vehicles,  
17 locomotives, and diesel marine vessels, and shall implement the  
18 program beginning January 1, 2010. Such program shall be  
19 designed, among other things, to support a reliable and  
20 complete inventory of diesel nonroad vehicles in the State; the  
21 information shall include but not be limited to, the type of  
22 fuel for which the vehicle is designed, the type of engine  
23 (including whether the engine is electronically controlled),  
24 the use for which the vehicle is designed, and any installed  
25 emission controls.

26 (e) Severability. If any clause, sentence, paragraph, or

1 provision of this Section shall be adjudged by any court of  
2 competent jurisdiction to be invalid, such judgment shall not  
3 affect, impair, or invalidate the remainder of this Section,  
4 but shall be confined in its operation to the clause, sentence,  
5 paragraph, section, or provision of this Act directly involved  
6 in the controversy in which the judgment was rendered.

7 Section 95. The State Finance Act is amended by adding  
8 Section 5.719 as follows:

9 (30 ILCS 105/5.719 new)

10 Sec. 5.719. The Diesel Emissions Reduction Fund.

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.